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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Hubert GRANGE et al.

Group Art Unit: 2811

Application No.: 10/567,865

Examiner: M. LI

Filed: February 10, 2006

Docket No.: 126997

For: MICRO-MECHANICAL DEVICE COMPRISING A SUSPENDED ELEMENT
WHICH IS CONNECTED TO A SUPPORT BY MEANS OF A PIER, AND
PRODUCTION METHOD THEREOF

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the May 14, 2008 Restriction Requirement, Applicants provisionally elect Group I, claims 1-6, with traverse.

National stage applications filed under 35 U.S.C. §371 are subject to unity of invention practice as set forth in PCT Rule 13, and are not subject to U.S. restriction practice. See MPEP §1893.03(d). PCT Rule 13.1 provides that an "international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept." PCT Rule 13.2 states:

Where a group of inventions is claimed in one and the same international application, the requirement of unity of invention referred to in Rule 13.1 shall be fulfilled only when there is a technical relationship among those inventions involving one or more of the same or corresponding special technical features. The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.

A lack of unity of invention may be apparent “*a priori*,” that is, before considering the claims in relation to any prior art, or may only become apparent “*a posteriori*,” that is, after taking the prior art into consideration. See MPEP §1850(II), quoting *International Search and Preliminary Examination Guidelines* (“ISPE”) 10.03. Lack of *a priori* unity of invention only exists if there is no subject matter common to all claims. *Id.* If *a priori* unity of invention exists between the claims, or, in other words, if there is subject matter common to all the claims, a lack of unity of invention may only be established *a posteriori* by showing that the common subject matter does not define a contribution over the prior art. *Id.*

Applicants respectfully submit that there exists *a priori* unity of invention with respect to claims 1-10, by virtue of the fact that claims 2-10 variously depend from claim 1. As stated in Chapter 10.06 of the ISPE (*International Search and Preliminary Examination Guidelines*):

Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. By “dependent” claim is meant a claim which contains all the features of one or more other claims and contains a reference, preferably at the beginning, to the other claim or claims and then states the additional features claimed (Rule 6.4).

ISPE 10.07 further provides:

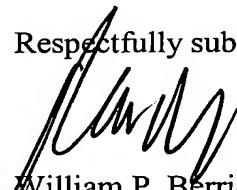
If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity arises in respect of any claims that depend on the independent claims. In particular, it does not matter if a dependent claim itself contains a further invention.

Therefore, each dependent claim shares at least each element or technical feature of independent claim 1. See also MPEP §1850 (II). Accordingly, all claims share common subject matter and, therefore, *a priori* unit of invention exists between all the claims.

Thus, for the present application, a lack of unity of invention may only be determined *a posteriori*, or in other words, after a search of the prior art has been conducted and it is established that all the elements of the independent claim are known. See ISPE 10.07 and 10.08. However, the Office Action does not establish that each and every element of independent claim 1 is known in the prior art.

Thus, withdrawal of the Restriction Requirement is respectfully requested.

Respectfully submitted,



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